

HOUSE BILL 771

C5, I3
HB 596/11 – ECM

2lr0395

By: **Delegate Davis**

Introduced and read first time: February 9, 2012

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 7, 2012

CHAPTER _____

1 AN ACT concerning

2 **Electric Companies and Gas Companies – Customer Accounts and**
3 **Information**

4 FOR the purpose of requiring an electric company, a gas company, or an electric and
5 gas company, on a certain request by a certain competitive supplier of electricity
6 or gas, to provide certain information related to certain customer accounts to
7 the supplier, subject to certain restrictions; requiring the distribution utility to
8 provide the information in a certain form and to update it periodically;
9 prohibiting a distribution utility from providing certain information without the
10 prior authorization of a certain customer; providing the method by which a
11 distribution utility must obtain the customer's authorization, including
12 requiring certain notice to be provided containing certain information; requiring
13 the notice to be provided to certain customers at certain times; establishing
14 when a customer is deemed to have given certain authorization; authorizing a
15 customer to withdraw authorization in a certain manner; requiring a
16 distribution utility to ensure that certain information is not shared under
17 certain circumstances; requiring a distribution utility to notify a certain
18 competitive supplier that a certain customer has withdrawn certain
19 authorization; requiring a competitive supplier to redact certain information
20 from its records under certain circumstances and refrain from contacting a
21 certain customer in a certain manner under certain circumstances; requiring
22 the Public Service Commission to allow a distribution utility to recover certain
23 costs directly from a competitive supplier; providing that a competitive supplier
24 may use certain information only for a certain purpose; prohibiting a
25 competitive supplier from selling or providing certain information to any other

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 person, with a certain exception; authorizing a competitive supplier to provide
2 certain information to an authorized agent for a certain purpose; providing that
3 the authorized agent is subject to the same restrictions on the use, sale, or
4 provision of the information as the competitive supplier; requiring a certain
5 competitive supplier to include certain information in certain marketing
6 materials sent to certain customers; prohibiting a competitive supplier from
7 transferring a certain customer account without certain authorization;
8 requiring a competitive supplier to retain certain information for a certain
9 purpose; requiring the Commission to adopt certain orders or regulations in
10 consultation with the Office of the Attorney General; providing that a violation
11 of this Act is an unfair or deceptive trade practice that is subject to certain
12 penalty and enforcement provisions; authorizing the coordination of certain
13 enforcement efforts; providing for the application of this Act to certain gas
14 suppliers under certain provisions of law; providing for the enforcement of this
15 Act with respect to certain gas suppliers and gas customers; providing that this
16 Act does not apply to an electric cooperative or a gas cooperative; defining
17 certain terms; providing for the effective date of certain provisions of this Act;
18 providing for the termination of certain provisions of this Act; and generally
19 relating to electricity, gas supply, and customer account information.

20 BY repealing and reenacting, with amendments,
21 Article – Commercial Law
22 Section 13–301(14)(xxvii)
23 Annotated Code of Maryland
24 (2005 Replacement Volume and 2011 Supplement)

25 BY adding to
26 Article – Commercial Law
27 Section 13–301(14)(xxix)
28 Annotated Code of Maryland
29 (2005 Replacement Volume and 2011 Supplement)

30 BY adding to
31 Article – Public Utilities
32 Section 7–510.1 and 7–604(c)
33 Annotated Code of Maryland
34 (2010 Replacement Volume and 2011 Supplement)

35 BY repealing and reenacting, with amendments,
36 Article – Commercial Law
37 Section 13–301(14)(xxvi)
38 Annotated Code of Maryland
39 (2005 Replacement Volume and 2011 Supplement)
40 (As enacted by Chapters 280 and 281 of the Acts of the General Assembly of
41 2011)

42 BY adding to

1 Article – Commercial Law
 2 Section 13–301(14)(xxviii)
 3 Annotated Code of Maryland
 4 (2005 Replacement Volume and 2011 Supplement)
 5 (As enacted by Chapters 280 and 281 of the Acts of the General Assembly of
 6 2011)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 8 MARYLAND, That the Laws of Maryland read as follows:

9 **Article – Commercial Law**

10 13–301.

11 Unfair or deceptive trade practices include any:

12 (14) Violation of a provision of:

13 (xxvii)Section 7–405(e)(2)(ii) of the Health Occupations Article;

14 [or]

15 (XXIX) SECTION 7–510.1 OF THE PUBLIC UTILITIES
 16 ARTICLE; OR

17 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 18 read as follows:

19 **Article – Public Utilities**

20 **7–510.1.**

21 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
 22 MEANINGS INDICATED.

23 (2) “COMPETITIVE SUPPLIER” MEANS:

24 (I) AN ELECTRICITY SUPPLIER LICENSED UNDER THIS
 25 SUBTITLE; OR

26 (II) A GAS SUPPLIER LICENSED UNDER SUBTITLE 6 OF THIS
 27 TITLE.

28 (3) “DISTRIBUTION UTILITY” MEANS AN ELECTRIC COMPANY, A
 29 GAS COMPANY, OR AN ELECTRIC AND GAS COMPANY.

30 (4) “SMALL COMMERCIAL CUSTOMER” DOES NOT INCLUDE:

1 **(I) AN OWNER OR AUTHORIZED AGENT OF A RESIDENTIAL**
2 **MULTIPLE OCCUPANCY BUILDING SERVED ON ANY COMMERCIAL OR**
3 **INDUSTRIAL ELECTRIC OR GAS SERVICE TARIFF;**

4 **(II) AN OWNER OR AUTHORIZED AGENT OF A COMMERCIAL**
5 **MULTIPLE OCCUPANCY OFFICE BUILDING SERVED ON ANY COMMERCIAL OR**
6 **INDUSTRIAL ELECTRIC OR GAS SERVICE TARIFF; OR**

7 **(III) ANY ELECTRIC OR GAS DISTRIBUTION ACCOUNT**
8 **SERVING A COMMON AREA OR AMENITY IN A RESIDENTIAL MULTIPLE**
9 **OCCUPANCY BUILDING OR COMMERCIAL MULTIPLE OCCUPANCY OFFICE**
10 **BUILDING.**

11 **(B) THIS SECTION DOES NOT APPLY TO AN ELECTRIC COOPERATIVE OR**
12 **A GAS COOPERATIVE.**

13 **(C) (1) SUBJECT TO SUBSECTION (D) OF THIS SECTION, ON THE**
14 **WRITTEN REQUEST OF A COMPETITIVE SUPPLIER LICENSED BY THE STATE, A**
15 **DISTRIBUTION UTILITY SHALL PROVIDE THE COMPETITIVE SUPPLIER WITH THE**
16 **FOLLOWING CUSTOMER ACCOUNT INFORMATION FOR EACH RESIDENTIAL**
17 **CUSTOMER AND SMALL COMMERCIAL CUSTOMER LOCATED IN THE SERVICE**
18 **TERRITORY OF THE DISTRIBUTION UTILITY:**

19 **(I) THE ACCOUNT NAME;**

20 **(II) THE BILLING ADDRESS;**

21 **(III) THE SERVICE ADDRESS;**

22 **(IV) THE UTILITY RATE CLASS;**

23 **(V) THE STANDARD OFFER SERVICE TYPE, IF ANY;**

24 **(VI) THE LOAD PROFILE;**

25 **(VII) THE POWER USAGE FOR THE PRECEDING 12-MONTH**
26 **PERIOD FOR EACH TYPE OF POWER; AND**

27 **(VIII) WHETHER THE TYPE OF POWER SUPPLIED TO THE**
28 **CUSTOMER IS:**

29 **1. GAS;**

1 2. ELECTRICITY; OR

2 3. GAS AND ELECTRICITY.

3 (2) A DISTRIBUTION UTILITY SHALL PROVIDE THE INFORMATION
4 REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION IN ELECTRONIC FORM
5 AND UPDATE THE INFORMATION AT LEAST FOUR TIMES EACH YEAR.

6 (D) (1) A DISTRIBUTION UTILITY MAY NOT PROVIDE CUSTOMER
7 ACCOUNT INFORMATION UNDER SUBSECTION (C) OF THIS SECTION WITHOUT
8 THE PRIOR AUTHORIZATION OF THE CUSTOMER NAMED ON THE ACCOUNT.

9 (2) (I) TO OBTAIN THE AUTHORIZATION OF A CUSTOMER, A
10 DISTRIBUTION UTILITY SHALL SEND THE CUSTOMER NAMED ON THE ACCOUNT
11 WRITTEN NOTICE OF:

12 1. THE TYPE OF ACCOUNT INFORMATION THAT
13 WOULD BE PROVIDED TO A COMPETITIVE SUPPLIER;

14 2. THE RIGHT OF THE CUSTOMER TO:

15 A. REFUSE TO AUTHORIZE THE DISTRIBUTION
16 UTILITY TO SHARE INFORMATION REGARDING THE CUSTOMER'S ACCOUNT; OR

17 B. WITHDRAW AN EARLIER AUTHORIZATION; AND

18 3. THE MANNER IN WHICH THE CUSTOMER IS
19 REQUIRED TO INDICATE A REFUSAL OF AUTHORIZATION OR A WITHDRAWAL OF
20 A PREVIOUS AUTHORIZATION.

21 (II) THE NOTICE REQUIRED UNDER SUBPARAGRAPH (I) OF
22 THIS PARAGRAPH SHALL BE PROVIDED:

23 1. AS PART OF THE WRITTEN MATERIALS SUPPLIED
24 TO NEW CUSTOMERS WHEN THE CUSTOMER APPLIES FOR SERVICE; AND

25 2. AS A BILL INSERT TO EXISTING CUSTOMERS PRIOR
26 TO THE FIRST TIME THAT THE DISTRIBUTION UTILITY PROVIDES INFORMATION
27 UNDER THIS SECTION.

28 (3) (I) A CUSTOMER IS DEEMED TO HAVE AUTHORIZED A
29 DISTRIBUTION UTILITY TO PROVIDE INFORMATION ABOUT THE CUSTOMER'S
30 ACCOUNT UNDER THIS SECTION IF, WITHIN 45 DAYS AFTER NOTICE IS GIVEN
31 UNDER THIS SUBSECTION, THE CUSTOMER DOES NOT INFORM THE

1 DISTRIBUTION UTILITY OF THE CUSTOMER'S REFUSAL IN THE MANNER
2 PRESCRIBED BY THE NOTICE.

3 (II) 1. A CUSTOMER MAY WITHDRAW AUTHORIZATION AT
4 ANY TIME BY NOTIFYING THE DISTRIBUTION UTILITY IN THE MANNER
5 PRESCRIBED BY THE NOTICE.

6 2. IF A CUSTOMER WITHDRAWS AUTHORIZATION,
7 THE DISTRIBUTION UTILITY SHALL:

8 A. ENSURE THAT THE CUSTOMER'S ACCOUNT
9 INFORMATION IS NOT PROVIDED IN THE NEXT UPDATE; AND

10 B. NOTIFY THE COMPETITIVE SUPPLIER THAT THE
11 CUSTOMER HAS WITHDRAWN AUTHORIZATION.

12 3. ON RECEIVING NOTICE FROM A DISTRIBUTION
13 UTILITY THAT A CUSTOMER HAS WITHDRAWN AUTHORIZATION UNDER THIS
14 PARAGRAPH, THE COMPETITIVE SUPPLIER SHALL:

15 A. REDACT THE CUSTOMER'S INFORMATION FROM
16 ITS RECORDS; AND

17 B. REFRAIN FROM CONTACTING THE CUSTOMER
18 DIRECTLY BY MAIL OR TELEPHONE TO MARKET SERVICES TO THE CUSTOMER.

19 4. ONCE A COMMERCIAL CUSTOMER HAS REFUSED
20 AUTHORIZATION, OR HAS WITHDRAWN AUTHORIZATION UNDER THIS
21 PARAGRAPH, THE DISTRIBUTION UTILITY MAY NOT ATTEMPT TO OBTAIN
22 AUTHORIZATION FROM THE COMMERCIAL CUSTOMER UNLESS THE
23 COMMERCIAL CUSTOMER AFFIRMATIVELY REQUESTS IT.

24 (4) A DISTRIBUTION UTILITY MAY NOT INCLUDE IN THE
25 INFORMATION PROVIDED UNDER SUBSECTION (C) OF THIS SECTION CUSTOMER
26 ACCOUNT INFORMATION OF A COMMERCIAL CUSTOMER THAT IS RECEIVING
27 ELECTRICITY SUPPLY OR GAS SUPPLY FROM A COMPETITIVE SUPPLIER.

28 (E) THE COMMISSION SHALL ALLOW THE DISTRIBUTION UTILITY TO
29 RECOVER THE PRUDENTLY INCURRED COSTS, AS THE COMMISSION
30 DETERMINES, OF PROVIDING THE INFORMATION UNDER SUBSECTION (C) OF
31 THIS SECTION DIRECTLY FROM THE COMPETITIVE SUPPLIER THAT REQUESTED
32 THE INFORMATION.

1 **(F) (1) A COMPETITIVE SUPPLIER MAY USE THE INFORMATION**
2 **OBTAINED UNDER THIS SECTION ONLY TO MARKET SERVICES RELATED TO**
3 **ELECTRICITY AND GAS SUPPLY.**

4 **(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
5 **PARAGRAPH, A COMPETITIVE SUPPLIER MAY NOT SELL OR PROVIDE ANY**
6 **INFORMATION OBTAINED UNDER THIS SECTION TO ANY OTHER PERSON,**
7 **INCLUDING AN AFFILIATE OF THE COMPETITIVE SUPPLIER.**

8 **(II) A COMPETITIVE SUPPLIER MAY PROVIDE INFORMATION**
9 **OBTAINED UNDER THIS SECTION TO AN AUTHORIZED AGENT TO DEVELOP OR**
10 **IMPLEMENT A MARKETING CAMPAIGN IN ACCORDANCE WITH PARAGRAPH (1)**
11 **OF THIS SUBSECTION.**

12 **(III) AN AUTHORIZED AGENT OF A COMPETITIVE SUPPLIER**
13 **THAT HAS OBTAINED INFORMATION UNDER SUBPARAGRAPH (II) OF THIS**
14 **PARAGRAPH IS SUBJECT TO THE SAME RESTRICTIONS ON THE USE, SALE, OR**
15 **PROVISION OF THE INFORMATION TO WHICH THE COMPETITIVE SUPPLIER IS**
16 **SUBJECT UNDER THIS SUBSECTION.**

17 **(G) A COMPETITIVE SUPPLIER SHALL INCLUDE IN ANY MARKETING**
18 **MATERIALS SENT TO A RESIDENTIAL CUSTOMER OR SMALL COMMERCIAL**
19 **CUSTOMER INFORMATION ON HOW A CUSTOMER MAY CONTACT THE**
20 **CUSTOMER'S DISTRIBUTION UTILITY TO WITHDRAW AUTHORIZATION FOR THE**
21 **DISTRIBUTION UTILITY TO PROVIDE TO COMPETITIVE SUPPLIERS INFORMATION**
22 **ABOUT THE CUSTOMER'S ACCOUNT.**

23 **(H) (1) WITHOUT OBTAINING THE PRIOR AUTHORIZATION OF THE**
24 **CUSTOMER, A COMPETITIVE SUPPLIER MAY NOT TRANSFER TO ITS OWN SUPPLY**
25 **A CUSTOMER OF ANOTHER COMPETITIVE SUPPLIER OR THE DEFAULT**
26 **SUPPLIER.**

27 **(2) A COMPETITIVE SUPPLIER SHALL MAINTAIN COPIES OF**
28 **EVIDENCE OF A CUSTOMER'S REQUEST TO TRANSFER TO SUPPLY PROVIDED BY**
29 **THAT COMPETITIVE SUPPLIER FOR THE PERIOD AND IN ACCORDANCE WITH**
30 **REQUIREMENTS AND PROCEDURES THAT THE COMMISSION ADOPTS UNDER**
31 **THIS SUBSECTION.**

32 **(3) THE COMMISSION MAY INSPECT THE RECORDS OF A**
33 **COMPETITIVE SUPPLIER TO DETERMINE COMPLIANCE WITH THIS SUBSECTION.**

34 **(4) IN CONSULTATION WITH THE OFFICE OF THE ATTORNEY**
35 **GENERAL, THE COMMISSION SHALL ADOPT ORDERS OR REGULATIONS TO**
36 **IMPLEMENT THIS SUBSECTION.**

1 **(I) (1) A VIOLATION OF THIS SECTION IS AN UNFAIR OR DECEPTIVE**
2 **TRADE PRACTICE UNDER TITLE 13 OF THE COMMERCIAL LAW ARTICLE.**

3 **(2) IN ADDITION TO BEING SUBJECT TO THE PENALTY AND**
4 **ENFORCEMENT PROVISIONS OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE,**
5 **A COMPETITIVE SUPPLIER WHO VIOLATES THIS SECTION IS SUBJECT TO**
6 **PENALTIES AND ENFORCEMENT UNDER THIS DIVISION AND REGULATIONS**
7 **ADOPTED UNDER THIS DIVISION.**

8 **(3) THE COMMISSION MAY COORDINATE ENFORCEMENT**
9 **EFFORTS UNDER THIS SECTION WITH THE OFFICE OF THE ATTORNEY**
10 **GENERAL.**

11 7-604.

12 **(C) (1) SECTION 7-510.1 OF THIS TITLE GOVERNS:**

13 **(I) THE PROVISION TO A GAS SUPPLIER BY A DISTRIBUTION**
14 **UTILITY OF INFORMATION ABOUT RESIDENTIAL CUSTOMERS AND SMALL**
15 **COMMERCIAL CUSTOMERS; AND**

16 **(II) THE TRANSFER OF ACCOUNTS FOR GAS SUPPLY OF**
17 **RESIDENTIAL CUSTOMERS AND SMALL COMMERCIAL CUSTOMERS.**

18 **(2) IN ADDITION TO THE ORDERS OR REGULATIONS THE**
19 **COMMISSION ADOPTS FOR GAS SUPPLIERS UNDER THIS SECTION, A VIOLATION**
20 **OF § 7-510.1 OF THIS TITLE WITH RESPECT TO A GAS CUSTOMER MAY BE**
21 **ENFORCED IN ACCORDANCE WITH THE PENALTY AND ENFORCEMENT**
22 **PROVISIONS OF THIS DIVISION AND, FOR A VIOLATION THAT IS AN UNFAIR OR**
23 **DECEPTIVE TRADE PRACTICE, TITLE 13 OF THE COMMERCIAL LAW ARTICLE.**

24 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
25 read as follows:

26 **Article – Commercial Law**

27 13-301.

28 Unfair or deceptive trade practices include any:

29 (14) Violation of a provision of:

30 (xxvi) Title 6, Subtitle 13 of the Environment Article; [or]

1 (XXVIII) SECTION 7-510.1 OF THE PUBLIC UTILITIES
2 ARTICLE; OR

3 SECTION 4. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall
4 take effect on the taking effect of the termination provision specified in Section 4 of
5 Chapter 280 and Section 4 of Chapter 281 of the Acts of the General Assembly of 2011.
6 If that termination provision takes effect, Section 1 of this Act shall be abrogated and
7 of no further force and effect. This Act may not be interpreted to have any effect on
8 those termination provisions.

9 SECTION 5. AND BE IT FURTHER ENACTED, That, subject to the provisions
10 of Section 4 of this Act, this Act shall take effect July 1, 2012.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.